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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,312	11/27/2000	Charles E. Friesner	277.0017	5604

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/723,312

Applicant(s)

FRIESNER, CHARLES E.

Examiner

Yvonne M. Horton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7,9 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7,9 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7,9 and 26 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #3,402,520 to LEE et al. LEE et al. discloses the use of a structural panel (10) including a cellular urethane body (50), column 3, lines 49-51, that once thermoset assumes a rectangular shape and has a surface layer (40,42) of another material thereon, column 3, lines 42-43. The method of forming a device is not germane to the issue of patentability of the device itself. The applicant is reminded that, in apparatus claims, it is the finished product that is given patentable consideration. Hence, although the method step of curing as a consequence has not been given patentable weight, clearly CLAYTON et al., column 5, line 16 teaches the method of curing the urethane (50). In reference to claim 9, the surface (40,42) is chemically bonded to the body (50). Regarding claim 26, the surface layer (40,42) is metal, column 3, line 42-43.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,324,834 to PAGE et al. PAGE et al discloses the use of a structural panel including a rectangular shaped thermoset, cellular urethane body (11) having a surface layer (12) of another material thereon, column 2, lines 51-53. The method of forming a device is not germane to the issue of patentability of the device itself. The applicant is reminded that, in apparatus claims, it is the finished product that is given patentable consideration. Hence, the method step of curing as a consequence has not been given patentable weight. Even though the step of curing has not been given patentable weight, PAGE et al. specifically discloses that his foam expands and is heated. It would have been obvious to one having ordinary skill in the art at the time the invention was made that upon expanding and heating the foam material is cured to a certain extent. The heating process requires cooling, thus heating/cooling process involves curing. In reference to claim 9, the surface (12) is chemically bonded to the body (11) through the use of a binder, column 2, line 54.

Response to Arguments

Applicant's arguments filed 1/18/05 have been fully considered but they are not persuasive.

Regarding the applicant's argument that in column 2, lines 49-60, PAGE et al. does not teach a surface layer chemically and mechanically bonded to a body of a thermoset, cellular urethane as a consequence of cure of the urethane to its thermoset condition while forced against that surface layer, the examiner is confused by the applicant's interpretation. The applicant is again reminded that in apparatus claims the manner in which a device is formed is not given patentable weight. PAGE et al. does not explicitly detail curing however, as noted above in the revised rejection, it is obvious that upon expanding and heating the foam material is cured to a certain extent. Clearly, PAGE et al. discloses a urethane layer having an expanded material layer thereon; wherein, a binder is added to the expanded layer in order to form a sheet material and the combination is heated. Although not explicitly stated as bonding as a consequence of curing, surely the materials are bonded and the combination is "cured" as a consequence of the heating process and the process of expanding inherently imposes a force from the expansion process. Thus, the bond is in fact a consequence of the cure process.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

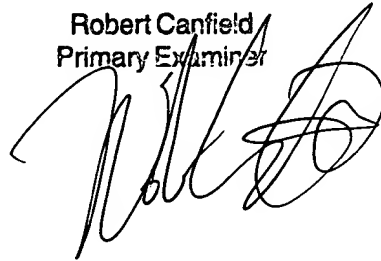
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YMH

3/24/05

Robert Canfield
Primary Examiner

A handwritten signature in black ink, appearing to be 'R. Canfield', written over the printed name and title.